

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 27th Day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE S.R. BANNURMATH

L.R.R.P. NO.931/1989

BETWEEN:

Sri. Sathyanarayana Shetty,  
major,  
s/o late Venkatappa,  
Agriculturist,  
Hindu, Major,  
Nagaragere,  
Gowribidanur Tq.,  
Kolar Dist.

...PETITIONER

(By Sri. H.R. Venkatramniah, &  
Sri. H.R. Anantha Krishna Murthy, Advs.)

AND:

1. State of Karnataka,  
by its Revenue Secretary,  
Vidhana Soudha,  
Bangalore-1.
2. The Land Tribunal,  
Gowribidanur,  
by its Secretary.
3. Sri. Narayanappa,  
major,  
s/o Adi Murthappa,  
Futtavalahalli,  
Nagaragere,  
Gowribidanur Tq.,  
Kolar Dist.,

...RESPONDENTS

(By Smt. G.R. Meena Kumari, HCGP for R-1 & 2,  
Sri. B.M. Krishna Bhat, Adv. for R-3)

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L.R.R.P.

This (C.R.P.) is filed u/s.121-A of KLR Act against the Order dt. 21-10-88 passed in ALRAA. 26/1988 on the file of the Land Appellate Authority, Chickballapur, allowing the appeal and setting aside the order passed by the Land Tribunal, Gowribidanur, in LRA.N.10:5:76-77 dt. 15-7-87.

This C.R.P. coming on for hearing this day, the Court made the following:-

O R D E R


The unsuccessful landlord has challenged in this Petition the order dated 21-10-88 passed by the Land Reforms Appellate Authority, Chickballapur, in ALRAA.26/1988 allowing the appeal and reversing the finding of the Land Tribunal, Gowribidanur, dated 15-7-1987 in LR.N.10:76-77 and granting occupancy rights to the 3rd respondent herein.

2. The brief facts are that the 3rd respondent claims to be the tenant and in actual possession and enjoyment of the land bearing

Survey No.29/5 to the extent of 35 guntas of land filed an application in Form No.7 before the Land Tribunal, Gowribidanur. The Land Tribunal though recorded the statement of the parties relying upon the entries in the revenue records, rejected the claim of the 3rd respondent holding that the entries in the revenue records showing ~~the~~ the name of the 3rd respondent from the year 1972-73 onwards and hence appears to be ~~newly made~~ entered newly ~~made~~ in the revenue records and as such rejected his application. On appeal by the tenant, the Appellate Authority again relying upon the ~~held~~ held that the entries in the revenue records have ~~have~~ revenue records ~~have~~ presumptive value and since there is no rebuttal evidence to show that the entries as either false or collusal and as such granted occupancy rights in favour of the 3rd respondent herein. Hence, this Revision Petition by the landlord.

3. It is noticed that both the Land Tribunal and the Appellate Authority have recorded their

findings based only on the entries in revenue records which being only a presumptive value. While granting occupancy right or rejecting the same, the Tribunal and the Appellate Authority ought to have considered the other materials namely oral evidence adduced by both the sides. Since, both the Tribunal and the Appellate Authority have failed to consider the same, in my opinion, it is a fit case to interfere with the orders of both the authorities and hence the orders of the Land Tribunal and the Appellate Authority dated 15-7-87 and 21-10-88 respectively are set aside. The matter is remitted back to the Land Tribunal with a direction to consider the entire material evidence including the statement of the parties adduced and pass an appropriate order. As the matter is pending before the authorities since more than 20 years, the Tribunal is directed to dispose of the case



within four months from the date of receipt of this order after issuing due notices to the contesting parties. Office is directed to return back the records received, to the Land Tribunal immediately.

Petition is disposed of accordingly.

Sd/-  
JUDGE

GB/-

bnv/-